

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

HECTOR LUNA, JULIAN GARCIA,  
FRANCISCO JAVIER LORENZO,  
SANTOS MALDONADO, PATRICIA  
WOODARD and BARTOLO NUNEZ  
individually and on behalf of others  
similarly situated,,

Plaintiff,

v.

DEL MONTE FRESH PRODUCE  
(SOUTHEAST), INC.,

Defendant.

CASE NO. 1:06-cv-2000-jec

**MOTION FOR PERMISSIVE JOINDER**

COME NOW named Plaintiffs Hector Luna, Julian Garcia, Francisco Javier Lorenzo, Santos Maldonado, Patricia Woodard and Bartolo Nuñez who respectfully move for the permissive joinder of additional Plaintiffs, pursuant to Federal Rule of Civil Procedure 20.

Plaintiffs move the Court to join the fifty-two (52) individuals who have already joined the Count III Fair Labor Standards Act collective action claims as opt-in Plaintiffs as parties to the Count I Breach of Employment Contract and Count II Migrant and Seasonal Agricultural Worker Protection

Act claims. The fifty-two (52) individuals whom Plaintiffs seek to join as Parties to Counts I and II were absent class members of the Rule 23 classes proposed for the litigation of the Count I and Count II claims until the Court denied class certification on March 3, 2009. [Rec. Doc. 277 at 27.] Plaintiffs now seek the permissive joinder of the claims of these former absent class members.

Plaintiffs seek the permissive joinder of the following forty-two (42) individuals as Plaintiffs in their Count I claims for breach of the H-2A contract:

- 1) As set forth in Plaintiffs' proposed Third Amended Complaint, Ms. Ada Linda Garcia-Tenorio was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 ¶ 18. Ms. Garcia joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on August 13, 2007. [Rec. Doc. 196-2.]
- 2) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Adolfo Roblero-Morales was an H-2A guestworker employed by Defendant in approximately 2004. Rec. Doc. 294-1 at ¶ 19. Mr. Roblero-Morales joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on March 23, 2007. [Rec. Doc. 123.]
- 3) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Angel Mancilla was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 20. Mr. Angel Mancilla joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.

- 4) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Aristeo Camacho-Grimaldo was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 21. Mr. Camacho-Grimaldo joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 5) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Baltazar Diaz-Orozco was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 22. Mr. Diaz-Orozco joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 6) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Bernardo Cedillo-Duque was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 23. Mr. Cedillo-Duque joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 7) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Carlos Martinez-Medina was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 24. Mr. Martinez-Medina joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 8) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Cesar Arturo Garcia-Sanchez was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 25. Mr. Garcia-Sanchez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 9) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Cirilo Alvarado-Mar was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 26. Mr. Alvarado-Mar joined the Fair Labor Standards Act claims

in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.

- 10) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Eladio Cortez-Sanchez was an H-2A guestworker employed by Defendant from approximately 2003 to 2004. Rec. Doc. 294-1 at ¶ 27. Mr. Cortez-Sanchez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on June 22, 2006. Rec. Doc. 27.
- 11) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Emilio Galarza-Banda was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 28. Mr. Galarza-Banda joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 12) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Enrique Lopez-Loredo was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 29. Mr. Lopez-Loredo joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 13) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Felizardo Garcia-Martinez was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 ¶ 30. Mr. Garcia-Martinez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 14) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Fortunato Ortega-Santes was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 ¶ 31. Mr. Ortega-Santes joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 15) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Francisco Beltran-Rojas was an H-2A

guestworker employed by Defendant from approximately 2003 to 2004. Rec. Doc. 294-1 at ¶ 32. Mr. Beltran-Rojas joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on June 22, 2006. Rec. Doc. 27.

- 16) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Humberto Cepada-Rosas was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 33. Mr. Cepada-Rosas joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on August 13, 2007. Rec. Doc. 196-2.
- 17) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Humberto Hernandez-Galvan was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 34. Mr. Hernandez-Galvan joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 12, 2007. Rec. Doc. 152.
- 18) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. Ignacio Ibarra-Rivera was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 35. Mr. Ibarra-Rivera joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 19) As set forth in Plaintiffs' proposed Third Amended Complaint, Mr. J. Isabel Martinez-Abundiz was an H-2A guestworker employed by Defendant in approximately 2006. Rec. Doc. 294-1 at ¶ 36. Mr. Martinez-Abundiz joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 20) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 at ¶ 37], Mr. Jorge Aguilar-Esteban was an H-2A guestworker employed by Defendants in approximately 2004. Mr. Aguilar-Esteban joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on March 23, 2007. Rec. Doc. 123.

- 21) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 291-1 ¶ 38], Mr. Jose Antonio Fabian-Flores was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Fabian-Flores joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 22) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 39], Mr. Jose Hernandez-Hernandez was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Hernandez-Hernandez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 11, 2007. Rec. Doc. 207.
- 23) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 40], Mr. Jose Juan Martinez-Gallegos was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Martinez-Gallegos joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 24) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 41], Mr. Jose Ricardo Zuniga-Mar was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Zuniga-Mar joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 25) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 42], Mr. Jose Victor Martinez-Mendez was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Martinez-Mendez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 26) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 43], Mr. Juan Albino Juarez-Estrada was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Juarez-Estrada joined the Fair Labor

Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.

- 27) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 44], Mr. Lazaro Nava-Osorio was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Nava-Osorio joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 28) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 45], Mr. Leopoldo Barrios-Ortega was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Barrios-Ortega joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 29) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 46], Ms. Lorena Sierra-Gonzalez was an H-2A guestworker employed by Defendants in approximately 2006. Ms. Sierra-Gonzalez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 30) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 47], Mr. Miguel Martinez-Martinez was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Martinez-Martinez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 31) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 48], Ms. Narcisa Moreno-Diaz was an H-2A guestworker employed by Defendants in approximately 2006. Ms. Moreno-Diaz joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 32) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 49], Mr. Narciso Medina-Reyes

was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Narciso Medina-Reyes joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on August 13, 2007. Rec. Doc. 196-2.

- 33) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 50], Mr. Pablo Medina-Reyes was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Pablo Medina-Reyes joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on November 14, 2007. Rec. Doc. 230.
- 34) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 51], Mr. Pedro Barrios-Ortega was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Barrios-Ortega joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 35) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 52], Mr. Raul Escobar-Gonzalez was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Escobar-Gonzalez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on May 12, 2008. Rec. Doc. 247.
- 36) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 53], Mr. Reyes Ramos-Vasquez was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Ramos-Vasquez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 12, 2007. Rec. Doc. 152.
- 37) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 54], Mr. Roberto Del Angel-Carrera was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Del Angel-Carrera joined the Fair



Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.

- 38) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 55], Mr. Roberto Mancilla-Hernandez was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Mancilla-Hernandez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 39) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 56], Mr. Sixto Mancilla-Rodriguez was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Mancilla-Rodriguez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on July 10, 2007. Rec. Doc. 151.
- 40) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 57], Mr. Teodoro Duque-Zuniga was an H-2A guestworker employed by Defendants in approximately 2006. Mr. Duque-Zuniga joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. Rec. Doc. 42.
- 41) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 58], Ms. Tomasa Hernandez-Coronado was an H-2A guestworker employed by Defendants in approximately June 2006. Ms. Hernandez-Coronado joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 21, 2006. [Rec. Doc. 42.]
- 42) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 59], Mr. Uriel Patino-Corona was an H-2A guestworker employed by Defendants in approximately 2004. Mr. Patino-Corona joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on August 4, 2006. [Rec. Doc. 33.]

Plaintiffs also seek the permissive joinder of the following ten (10) individuals as Plaintiffs in their Count II claims under the AWP:

1) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 63], Mr. Adolfo Gomez was employed by Defendants intermittently from approximately 2003 to 2006 as a migrant or seasonal agricultural worker. Mr. Gomez joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 29, 2006. Rec. Doc. 53.

2) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 64], Mr. C.J. Mason was employed by Defendants intermittently from approximately 2004 to 2006 as a migrant or seasonal agricultural worker. Mr. Mason joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on October 24, 2006. Rec. Doc. 59.

3) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 65], Mr. George Allen was employed by Defendants in approximately 2005 as a migrant or seasonal agricultural worker. Mr. Allen joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on October 12, 2006. [Rec. Doc. 58.]

4) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 66], Mr. George Worthen was employed by Defendants in approximately 2004 as a migrant or seasonal agricultural worker. Mr. Worthen joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on May 15, 2007. Rec. Doc. 142.

5) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 67], Ms. Hope Williams was employed by Defendants in approximately 2004 as a migrant or seasonal agricultural worker. Ms. Williams joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on November 13, 2006. Rec. Doc. 70.

6) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 68], Jamil Wright was employed by Defendants during times relevant to this action as a migrant or seasonal agricultural worker. Mr. Wright joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on May 4, 2009. Rec. Doc. 289.

7) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 69], Ms. Kathy Williams was employed by Defendants during times relevant to this action as a migrant or seasonal agricultural worker. Ms. Williams joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on May 4, 2009. Rec. Doc. 289.

8) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 70], Ms. Rosa Arias was employed intermittently by Defendants from approximately 2004 to 2006 as a migrant or seasonal agricultural worker. Ms. Arias joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on February 2, 2007. Rec. Doc. 114.

9) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 71], Ms. Sandreka Madison was employed by Defendants in approximately 2005 as a migrant or seasonal agricultural worker. Ms. Madison joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on January 11, 2007. Rec. Doc. 109.

10) As set forth in Plaintiffs' proposed Third Amended Complaint [Rec. Doc. 294-1 ¶ 72], Ms. Veota Khamlusa was employed by Defendants in approximately 2006 as a migrant or seasonal agricultural worker. Ms. Khamlusa joined the Fair Labor Standards Act claims in this case as an opt-in Plaintiff on September 29, 2006. Rec. Doc. 53.

**CONCLUSION**

For the reasons set forth in Plaintiffs' accompanying Memorandum of Law, the Plaintiffs respectfully request that the Court grant their Motion for Permissive Joinder of the fifty-two proposed additional Plaintiffs.

Respectfully Submitted,<sup>1</sup>

/s/ Andrew H. Turner

Andrew H. Turner *pro hac vice*

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<sup>1</sup> Pursuant to L.R. 7.1D, the undersigned certifies that this pleading complies with the font and point selections permitted by L.R. 5.1B. This Motion was prepared using the Times New Roman 14 point typeface.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have on **May 7, 2009** electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to the following attorneys of record for the Defendants:

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